

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

October 29, 1997

DIVISION ONE

[illegible]

The judgment is affirmed.

Masterson, J.

We concur: Spencer, P.J.
Dunn, J. (Assigned)

B110706 People (Not for Publication)
v.
Morris

The judgment is affirmed.

Masterson, J.

We concur: Vogel (Miriam A.), Acting P.J.
Dunn, J. (Assigned)

B113036 People (Not for Publication)
v.
Selve

The judgment is affirmed.

Masterson, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

October 29, 1997-Continued

DIVISION ONE (Continued)

B108179 People (Not for Publication)
v.
Douglas

The judgment is affirmed.

Masterson, J.

We concur: Spencer, P.J.
Dunn, J. (Assigned)

B111759 People (Not for Publication)
v.
Sanchez

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Masterson, J.

[illegible]

The judgment is ordered modified to strike imposition of the three-year enhancement pursuant to Penal Code section 667.5, subdivision (a), and substitute in its place a one-year enhancement pursuant to Penal Code section 667.5, subdivision (b). The trial court is ordered to forward a copy of the modified judgment to the Department of Corrections. As modified, the judgment is affirmed.

Masterson, J.

We concur: Ortega, Acting P.J.
Vogel (Miriam A.), J.

October 29, 1997-Continued

DIVISION ONE (Continued)

B104890 People (Not for Publication)
v.
Allen

The judgment is modified to reflect 295 days of presentence custody credits. As modified, the judgment is affirmed.

Masterson, J.

We concur: Spencer, P.J.
Dunn, J. (Assigned)

B106479 Newco Waste Systems, Inc. et al. (Not for Publication)
v.
City of Monrovia et al.

The summary judgments on the breach of contract cause of action is reversed insofar as Newco and the City are concerned; to the extent that Cardelucci and the individually named defendants are expressly or impliedly covered by that judgment, it is affirmed; and the cause is remanded to the trial court with directions to set this remaining claim for trial. In all other respects, the judgments and orders are affirmed. The parties are to pay their own costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

B111050 Providence Washington Insurance Co. (Certified for Publication)
v.
Container Freight, Inc. et al.

The judgment is reversed and the cause is remanded to the trial court with directions to vacate the summary judgment and the orders on the cross-motions for summary judgment, and to set the case on track for trial. The parties are to pay their own costs of appeal.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Masterson, J.

DIVISION ONE (Continued)

B112690 School District of Okaloosa County (Certified for Publication)

v.
Superior Court, Los Angeles County
(City of Orange et al., r.p.i.)

Let a peremptory writ of mandate issue directing the trial court (1) to vacate its order denying Okaloosa's disqualification motion, and (2) to enter a new order granting the motion and transferring this case to the presiding judge for reassignment to another judge. The temporary stay heretofore issued shall remain in effect until remittitur issues and then be dissolved without further order from us. The parties are to pay their own costs of these writ proceedings.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
 Masterson, J.

B107718 People (Certified for Publication)

v.
Hinks & Villanueva

The order is reversed.

Spencer, P.J.

We concur: Ortega, J.
 Vogel (Miriam A.), J.

B110449 Los Angeles County, D.C.S. (Not for Publication)

v.
Nathan M.
In re Nathan M.

The orders are affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
 Masterson, J.

October 29, 1997-Continued

DIVISION ONE (Continued)

B102912 Sun et al. (Not for Publication)
v.
Cosgrove

The judgment is reversed. Defendant is to recover costs on appeal.

Spencer, P.J.

We concur: Ortega, J.
Masterson, J.

B102027 Gibson (Not for Publication)
v.
Murray et al.

The order is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Masterson, J.

B105252 Brown (Not for Publication)
v.
Miller et al.

The order is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Vogel (Miriam A.), J.

DIVISION ONE (Continued)

B095916 Banuelos (Not for Publication)
v.
Ungo

The order is reversed; the matter is remanded for further proceedings consistent with this opinion, at which time the trial court may consider whether to impose monetary sanctions against plaintiff for failure to have his mail forwarded or inform the court of his change of address. Plaintiff is to recover costs on appeal.

Spencer, P.J.

We concur: Ortega, J.
Vogel (Miriam A.), J.

B106805 People (Not for Publication)
v.
Callihan

The judgment of conviction is affirmed. The sentence is vacated and the case remanded for resentencing in a manner consistent with this opinion.

Spencer, P.J.

We concur: Masterson, J.
Dunn, J. (Assigned)

DIVISION TWO

B106669 People (Not for Publication)
v.
Magana

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
Fukuto, J.

October 29, 1997-Continued

DIVISION TWO (Continued)

[illegible]

The Court:

The judgment is affirmed.

Boren, P.J., Fukuto, J., Nott, J.

DIVISION THREE

B098994 Ihnen, et al. (Not for Publication)
v.
Freeman, Freeman & Smiley, et al.

The judgment is affirmed. Costs awarded to Respondents.

Aldrich, J.

We concur: Croskey, Acting P.J.
 Aranda, J. (Assigned)

B101552 Nilluang (Not for Publication)
v.
County of Los Angeles, et al.

The order denying Nilluang's motion for attorney fees pursuant to 42 United States Code section 1988 is affirmed. The County and Sims are awarded costs on appeal.

Kitching, J.

We concur: Croskey, Acting P.J.
 Aldrich, J.

DIVISION THREE (Continued)

B105780 Krug (Not for Publication)
v.
Franchise Tax Board

The judgment is affirmed. Franchise Tax Board is awarded costs on appeal.

Kitching, J.

We concur: Croskey, Acting P.J.
 Aldrich, J.

[illegible]

The judgment is affirmed.

Aldrich, J.

We concur: Croskey, Acting P.J.
 Aranda, J. (Assigned)

B101267 Aktar (Certified for Publication)
B106453 v.
Anderson

The petition is granted in part and denied in part. The trial court's order granting the preliminary injunction is modified to allow the Department to pursue collection by involuntary means any food stamp overissuances stemming from administrative error which occurred after the effective date of section 844 of PRWORA. In pursuing such overissuances, the Department also may utilize the tax intercept of Government Code section 12419.5. As modified, the trial court's order is affirmed. Each party to bear its own costs.

Klein, P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION SIX

B110279 Board of Retirement (Certified for Publication)

v.

Santa Barbara County Grand Jury

The judgment is affirmed and the stay is dissolved. Costs are awarded to respondent.

Stone, P.J.

We concur: Yegan, J.
 Coffee, J.

B109617 Burnette (Not for Publication)

v.

Los Robles Regional Medical Center

The judgment is affirmed. Costs are awarded to respondents.

Gilbert, Acting P.J.

We concur: Yegan, J.
 Coffee, J.

B103709 Corbani
v.
County of Santa Barbara

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment.)

DIVISION SEVEN

B106590 Clarke (Not for Publication)

v.
City of Los Angeles

The appeal is dismissed. Respondents are entitled to costs on appeal.

Lillie, P.J.

We concur: Johnson, J.
 Neal, J.

B106914 People (Not for Publication)

v.
Todd

The judgment (order revoking probation) is affirmed.

Neal, J.

We concur: Johnson, Acting P.J.
 Woods, J.

B106994 People (Not for Publication)

v.
Morales

The judgment is affirmed.

Neal, J.

We concur: Johnson, Acting P.J.
 Woods, J.

DIVISION SEVEN (Continued)

B105267 McMahon (Not for Publication)

v.

El Camino Community College District

The judgment of the trial court and the order awarding attorneys fees are reversed, and the case is remanded for further proceedings consistent with this opinion. The parties shall bear their own costs on appeal.

Neal, J.

We concur: Johnson, Acting P.J.
 Woods, J.